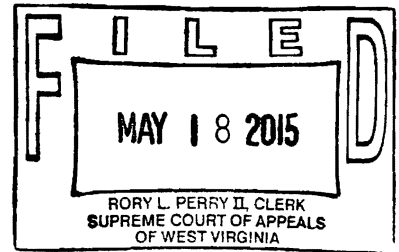




State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0140



May 18, 2015

Rory L. Perry, II, Clerk of the Court
Capitol Complex
Building One, Room E-317
Charleston, WV 25305

Re: State of West Virginia v. James Earl Noel, Jr., No. 14-0174, Notice of Additional Authority

Dear Clerk Perry:

Enclosed on behalf of the Respondent, the State of West Virginia, please find attached an article published by the Charleston Daily Mail on May 13, 2015, entitled "Police Assess Situation After Suspect Steals Cruiser" submitted as an additional authority pursuant to West Virginia Rule of Appellate Procedure 10(i).

Very truly yours,

A handwritten signature in black ink, appearing to read "Elbert Lin".

Elbert Lin
Solicitor General

Enclosures

C: David L White

 URL: <http://www.charlestondaily.com/article/20150513/DM02/150519624>

Police assess situation after suspect steals cruiser

By Tyler Bell



ANTHONY PAUL/COURTESY
PHOTO

A Ford Explorer Interceptor similar to this model was stolen Tuesday on U.S. 522 in Berkeley Springs, Morgan County.

The State Police are standing behind Trooper First Class S.R. Smith the day after a handcuffed suspect stole his cruiser during a traffic stop in Morgan County.

"It was one of those things, unfortunately, that could happen to anybody," said Sgt. A.J. Peer, commander of the State Police's Berkeley Springs detachment and Smith's boss.

Smith stopped a black Ford F-350 in the 10000 block of Valley Road in Morgan County around 8:49 a.m. Tuesday, according to a criminal complaint filed with Morgan Magistrate Court. He identified the front seat passenger as Dustin Wade Hinckle, 29, of Berkeley Springs.

Hinckle's identification turned up an outstanding warrant for multiple probation violations in Virginia, the complaint read. Hinckle's wrists were cuffed behind his back and he was seat-belted into the backseat of Smith's cruiser.

Smith returned to the truck to tell the driver he was free to leave, the complaint stated. While that was happening, Hinckle maneuvered his way into the front seat and drove off with more than \$45,000 in state property, including a shotgun, an assault rifle and Smith's badge.

Hinckle was found near the corner of Sphor's Road and Eckard Lane in Morgan County about 3 p.m. Tuesday, said Lt. Michael Baylous, the State Police's communications officer.

"There was a short foot pursuit and he was taken into custody," Baylous said.

The vehicle and its contents were recovered in their entirety, he said.

Several factors contributed to the theft outside of the obvious criminal element. Smith was alone at the scene and dealing with two people, the cruiser was left running and there's no partition between the front and back seats in that vehicle.

Smith going back to speak with the driver of the truck created an opening.

"That's when Mr. Hinckle was able to maneuver the handcuffs in front of him and make off with the vehicle," Baylous said. He speculated Smith might have left the car running to prevent Hinckle from overheating and to keep the emergency lights running.

"We'll just have to grow from the situation and see what we could have done to prevent this from happening and think moving forward," Baylous said. "I don't know that (Smith) necessarily did anything wrong."

“He did everything right,” Peer said of Smith’s execution of the traffic stop. “This dude was one of those guys who’re just limber enough to get his hands in front of him.”

Peer said the State Police, the Morgan County law enforcement community at large and a helicopter unit from Virginia that helped search for Hinckle are meeting Monday to debrief on the situation and share what they learned.

As for Smith, he’s pretty embarrassed about the incident.

“He’s taking it rough,” Peer said, “like anybody would.”

Hinckle was arrested, arraigned and booked into Eastern Regional Jail, where he remains held on \$50,000 bail on two charges and without assessed bail on another.

Contact writer Tyler Bell at 304-348-4850 or email him at tyler.bell@dailymailwv.com. Follow him at twitter.com/Tyler_Bell87.

IN THE WEST VIRGINIA SUPREME COURT OF APPEALS
NO. 14-0174

State of West Virginia,

Plaintiff Below, Respondent,

v.

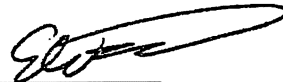
James Earl Noel, Jr.,

Defendant Below, Petitioner.

CERTIFICATE OF SERVICE

I, Elbert Lin, Solicitor General and counsel for Respondent, verify that on May 18, 2015, I served a copy of *State of West Virginia's Notice of Additional Authority* upon all parties as indicated below by U.S. Mail:

David L. White
Suite 314, The Peoples Bldg.
179 Summers Street
Charleston, WV 25301



Elbert Lin (WV State Bar # 12171)
Solicitor General